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SUBCHAPTER 22. TREATMENT WORKS APPROVALS, SEWER BANS, SEWER BAN EXEMPTIONS

7:14A-22.1 General policy and purpose

- (a) It is the purpose of this subchapter to:
 - 1. Establish when a treatment works approval permit is required from the Department;
 - 2. Establish the administrative requirements for treatment works approval applications;
 - 3. Establish the criteria for the imposition of sewer connection bans;
 - 4. Restrict the approval of additional sewer connections, by means of a sewer connection ban, in circumstances when untreated or partially treated wastewater is being discharged in substantial non-compliance with a NPDES or NJPDES permit, or circumstances when inadequate conveyance capacity exists in a collection/conveyance system;
 - 5. Establish criteria for exemptions from sewer connection bans; and
 - 6. Establish a mechanism for actions by local and regional sewerage authorities to provide for adequate sewage conveyance and treatment facilities within their sewer service areas, and to ensure that sewage generating facilities are located within the appropriate sewer service area as determined by the applicable water quality management plans.
- (b) The performance of sewerage facilities, which are generally owned and operated by local and regional sewerage authorities, is dependent, in part, on how they are managed as well as upon controls exercised over the issuance of local approvals and additional sewage connection permits. Adequate monitoring and prudent management of such facilities is essential in order to prevent violations of their NJPDES permits or overflows of conveyance systems. It is the responsibility of the sewerage authority and/or treatment plant owner/operator to implement timely corrective actions and to ensure that additional connections to the treatment works do not result in such occurrences. Whenever the participating municipalities and sewerage authorities fail in this responsibility, the Department may take whatever action that it deems necessary to assure compliance, including, but not limited to, ceasing the issuance of treatment works approval permits and/or the imposition of a sewer connection ban.

7:14A-22.2 Scope

- (a) Pursuant to N.J.S.A. 58:10A-6, no person shall build, install, modify or operate any facility (including any sewer extension as defined in this chapter) for the

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collection, conveyance, treatment or discharge of any industrial or domestic wastewater except in conformance with this subchapter.

- (b) In a sewer connection ban area, any project involving the construction, operation or modification of a connection, including the modification of a building's projected flow, may not be undertaken except in conformance with this subchapter.
- (c) In addition to any action expressly authorized by this chapter, the Department shall have the authority to pursue other remedial actions and may take enforcement actions under the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and impose fines or penalties in accordance with the Civil Administrative Penalty Rules, N.J.A.C. 7:14-8, or other applicable statute for failure to comply with the terms, conditions, and requirements of this subchapter.
- (d) These rules shall be liberally construed to permit the Department and its various agencies to administer their statutory functions.
- (e) The Department may, upon notice to all parties and in the public interest, delegate, in accordance with N.J.A.C. 7:14A-22.23, the application of these rules.
- (f) The technical standards for the design and construction of treatment works are contained in N.J.A.C. 7:14A-23.
- (g) When a treatment works is not required to obtain an approval from the Department pursuant to this subchapter, the treatment works is nonetheless required to conform with any applicable requirements of this subchapter and N.J.A.C. 7:14A-23, Technical Requirements for Treatment Works Approvals.
- (h) The Department shall determine within 20 working days of the issuance of a final NJPDES permit or NJPDES permit modification, whether the discharger shall be required to obtain approval in accordance with the subchapter.
- (i) No person shall permit, approve or otherwise allow the construction, installation, modification or operation of any facility or activity that violates the terms, conditions and requirements of this subchapter.

7:14A-22.3 Activities for which a treatment works approval is required

- (a) Except as provided in N.J.A.C. 7:14A-22.4, no person shall engage in any of the following activities except in conformance with a valid treatment works approval from the Department:
 - 1. Building, installing, modifying, or operating any treatment works including, but not limited to, sewer extensions, sewer interceptors,

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domestic and industrial wastewater treatment systems, holding tanks, equalization tanks and wastewater treatment and recycling systems.

2. Building, installing, modifying or operating any sewer line, pumping station or force main which serves more than two buildings or will convey 8,000 gallons per day or more of flow to a treatment works.
 - i. Increasing the projected flow in an existing sewer line by 8,000 gallons per day or more shall require a treatment works approval permit, irrespective of whether or not additional sewer line construction is involved;
 3. Building, installing, operating or modifying any residuals treatment units, including, but not limited to, facilities for composting, heat drying, thickening, digestion, air drying, thermal reduction, dewatering and storage of sludge;
 4. Building, installing, operating or modifying any domestic or industrial treatment works that discharges directly to the surface water or ground water of the State, with the exception of individual subsurface disposal systems exempted pursuant to N.J.A.C. 7:14A-22.4(a)3; or
 5. Building, installing, operating or modifying any industrial treatment works located in any area of the State where the Department is the control authority (non-delegated area) for an industrial pre-treatment program pursuant to 40 CFR 403 and N.J.A.C. 7:14A-19.
- (b) Industrial treatment works approval applications submitted pursuant to (a)4 and 5 above will generally be processed within 30 days of receipt of a complete application in accordance with N.J.A.C. 7:14A-22.6.
- (c) Projects for which flow is the determining factor for the requirement of a treatment works approval pursuant to this section, the projected flow criteria specified in N.J.A.C. 7:14A-23.3 shall be used.

7:14A-22.4 Activities for which a treatment works approval is not required

- (a) A treatment works approval from the Department is not required for the following activities:
1. Building, installing, modifying or operating any sewer lateral (whether forced or by gravity), which will convey less than 8,000 gallons per day of projected flow;
 2. Building, installing, modifying or operating any wastewater pumping equipment which utilizes a lateral force main connection, whether publicly or privately owned, to serve a facility whose projected flow is less than 8,000 gallons per day;

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3. Building, installing, operating or modifying a septic system or other subsurface disposal system where the aggregate projected flow of the facility, using the criteria established in N.J.A.C. 7:9A, is less than or equal to 2,000 gallons per day of sanitary sewage. Treatment works for such facilities are regulated pursuant to N.J.A.C. 7:9A Standards for Individual Subsurface Sewage Disposal Systems;
4. For existing facilities, and regardless of current flow, aggregate increases in the projected flow of less than 8,000 gallons per day over a five year period resulting from internal plumbing modifications, building additions, renovations or changes in use of a facility, providing that the project does not involve construction of a sewer extension or other treatment works which requires a permit pursuant to N.J.A.C. 7:14A- 22.3.
 - i. In sewer ban areas, this exception shall not be construed to exempt the need for a sewer ban exemption prior to construction, if required pursuant to this subchapter;
 - ii. This exception does not apply to projects served by individual subsurface disposal systems or small treatment plants (less than 150,000 gpd) that discharge to groundwater;
5. Rehabilitation or the replacement of existing sewer lines providing that the diameter and location of the sewer line will remain unchanged and providing that the slope is either unchanged or changed only as necessary to bring an existing below-slope sewer into conformance with minimum (or greater) Department design standards.
6. The replacement of worn, damaged, defective or inoperable wastewater pumps, sewage treatment units or components of residuals treatment and storage units providing that the capacity and location of the pumps or treatment units to be replaced will not change and the replacement treatment unit or wastewater pump station will be utilized to perform the same function as the former unit;
 - i. Existing pumping stations whose capacity is increased through a change in impeller size only, with no other modifications, do not require a treatment works approval.
7. Minor modifications of treatment works including, but not limited to, chemical addition for the purpose of improving performance and/or odor control (provided no treatment unit construction is to be undertaken), and modifications to treatment units for repair, maintenance or monitoring providing that the treatment process is not altered;
8. Residuals spreading and injection equipment to be utilized to disperse residuals at NJPDES permitted and exempted operations for land application of residuals;
9. The following mobile (not stationary) residuals storage installations:

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- i. Frac tanks except when fixed into position;
 - ii. Tanker trailers; and
 - iii. Roll-off containers;
 10. Mobile street sweepers and payloaders utilized to collect and move residuals at NJPDES permitted and exempted residual operations;
 11. Provisions for emergency storage of residuals provided said storage is less than 180 days in duration and in accordance with Part 4-VIII of the Statewide Sludge Management Plan;
 12. Building, installing, operating or modifying handling equipment or storage units for marketable residual products.
 13. Building, installing, operating or modifying a treatment works for a groundwater recovery and reinjection system which is performed under the authority of the Procedures for Department Oversight of the Remediation of Contaminated Sites, N.J.A.C. 7:26C.
- (b) In addition to (a) above, a treatment works approval or general industrial treatment works approval will not be required for the following facilities:
1. Building, installing, operating or modifying any industrial treatment works discharging into a publicly owned treatment works and located in an area of the State for which the Department is not the control authority (delegated area) for the industrial pre-treatment program pursuant to 40 CFR 403 and N.J.A.C. 7:14A-19;
 - i. Projects involving the construction of a sewer extension require a treatment works approval for the conveyance aspects only and are subject to the conditions of N.J.A.C. 7:14A-22.8;
 - ii. Projects involving additional flow through an existing sewer line of 8,000 gpd or more require a treatment works approval for the conveyance aspects only and may be considered under the provisions of N.J.A.C. 7:14A-22.6;
 2. Building, installing, operating or modifying an American Petroleum Institute approved gravity oil/water separator, a retention or detention basin, sand traps or sediment traps that are installed routinely in facilities such as car washes, truck wash bays and other similar discharges, when these systems are authorized under a general NJPDES permit, have been determined not to require a NJPDES permit, or are exempted from obtaining a NJPDES permit pursuant to this chapter or are stormwater management facilities (see (b)3v below);
 3. Building, installing, operating or modifying any of the following activities or facilities:
 - i. Grease traps for use in restaurants;

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- ii. Cooling towers for non-contact water/heat exchange units and necessary associated appurtenances;
 - iii. Holding tanks for wastewater which is solely industrial in nature and the amount to be hauled to a treatment works will be less than 8,000 gallons per day, and the tank will have a total volume of 21,000 gallons or less;
 - iv. Recycling systems for industrial waste only, which do not discharge directly to the surface water or ground water;
 - v. Stormwater management facilities, including but not limited to retention basins, detention basins, and oil/water separators that prevent, abate, reduce, collect, convey, store, treat, dispose of, or otherwise manage stormwater runoff;
 - vi. Any part of a separate storm sewer system; or
 - vii. Treatment units used for pretreatment of water for use in an on-going manufacturing process at the industrial facility;
- 4. Mobile treatment works to be specifically utilized for the treatment of water in relation to a short-term pump test or dewatering associated with an underground storage tank project authorized under a NJPDES category B4B General permit; or
 - 5. Building, installing, modifying or operating any system for discharges to ground water that are authorized by permit-by-rule in accordance with N.J.A.C. 7:14A-7.5 or 8.5.
- (c) Notwithstanding the terms of (a) and (b) above, the Department shall have the authority to regulate, at its discretion, any sewer connection or other domestic or industrial treatment works when a sewer connection ban exists or a health emergency so requires.
 - (d) The lack of a need to obtain a treatment works approval in accordance with this section does not relieve the project owner and/or sewerage authority from the responsibility to comply with all requirements of a NJPDES discharge permit. The responsibility of determining that additional flows to the treatment works will not result in any unpermitted discharge or NJPDES permit violation rests with the owner of the collection system and treatment facility.
 - (e) For projects in which flow is the determining factor for the requirement of a treatment works approval permit pursuant to this section, the projected flow criteria specified in N.J.A.C. 7:14A-23.3 shall be used.

7:14A-22.5 Treatment works approval

- (a) A treatment works approval consists of the following three stages:

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1. Stage I is an optional preliminary or conceptual review of treatment works as prescribed in N.J.A.C. 7:14A-22.7. The Department recommends that a stage I review and approval be obtained for any new sewage treatment plant or plant expansion, or if the proposed treatment works involves a new or innovative design or technology.
 2. Stage II is an approval to construct, install or modify a treatment works as outlined in this subchapter.
 3. Stage III is an approval to operate a treatment works that has been constructed or received a stage II approval. In general, separate stage II "construct only" approvals are issued for projects located in sewer ban areas, in future sewer service areas for which no downstream sewers exist, and for construction of some treatment plants. Stage II and stage III approvals are generally issued concurrently as a single document, when operation of the treatment works can occur immediately upon completion of the project.
- (b) The construction, installation, modification or operation of a treatment works in a manner inconsistent with the terms and conditions of the Department's approval constitutes a violation of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. and may be subject to penalties and fines pursuant to the above Act, the Civil Administrative Penalty Rules, N.J.A.C. 7:14-8, or other applicable statute.
- (c) The Department may modify, suspend or revoke a treatment works approval in accordance with N.J.A.C. 7:14A-22.11.
- (d) The Department shall approve, condition, or deny an application for a treatment works approval pursuant to this subchapter and N.J.A.C. 7:1C-1, within 90 days of receipt of a complete application by the Department. This time period may be extended for one 30 day period upon the mutual consent of the applicant and the Department.
- (e) The issuance of a treatment works approval by the Department does not relieve the applicant of the continuing responsibility for the successful collection, conveyance, treatment or discharge of pollutants, nor does it relieve the applicant from the responsibility of insuring that all discharges are consistent at all times with the terms and conditions of the applicable NJPDES permit and that no pollutant will be discharged more frequently than authorized or at a level in excess of that which is authorized by the applicable NJPDES permit. The applicant is also responsible for complying with all applicable permits, regulations, statutes, or other laws.
- (f) The applicant and any owner or operator of a treatment works shall provide notice of the terms and conditions of any existing treatment works approval to a prospective purchaser of the treatment works. Upon change of ownership of

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the treatment works, the new owner shall assume responsibility for its proper operation and maintenance or closure. Notification to the Department of a change in ownership for the treatment works approval permit is not required.

- (g) The Department's review of applications and submissions is limited to engineering (including hydraulic) features of significance to applicable discharge limits and protection of the environment. The Department will not review structural, mechanical or electrical design, except when it may be significant to achievement of discharge limitations or to the protection of the environment.
- (h) A permit to construct or operate a treatment works, previously issued to the owner or operator pursuant to N.J.S.A. 58:11-10 or 58:12-3 will constitute a treatment works approval for the purpose of this subchapter. The permit and any conditions thereto will continue to be in effect until such time as the permit is revoked, amended or expired.
- (i) The full responsibility for adequate design, construction and operation of the treatment works, and the full responsibility for successful collection, treatment and discharge of pollutants shall be on the applicant.
- (j) Treatment works shall be constructed in a manner which is consistent with the provisions of the appropriate wastewater management plan.
- (k) The Department may grant an emergency approval authorizing the construction and/or operation of a treatment works prior to issuance of a formal treatment works approval in situations such as the modification/rehabilitation of existing treatment and conveyance systems where time delays may threaten the public health or safety. Such approvals shall be subject to the following requirements:
 - 1. The Department and the affected collection system owner and/or treatment plant owner (as appropriate) shall be informed by telephone or in writing, prior to construction, as to the project location, the extent of work to be performed, and the reason for the emergency.
 - 2. Within 15 calendar days of commencing the activity for which an emergency approval is authorized, an application for a treatment works approval and/or sewer ban exemption shall be submitted to the Department for review and issuance of the required permit. "As-built" drawings, if applicable, shall be submitted.
 - 3. The Department reserves the right to deny an emergency approval request if it is determined that an emergency approval request is not justified, the activity would be inconsistent with any applicable rules, or a more prudent alternative is available.
 - 4. Failure to comply with the requirements of (k)1 or 2 above, the construction or operation of treatment works inconsistent with the

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emergency authorization, or submission of false information may subject the applicant to enforcement action by the Department, including the imposition of fines or penalties.

- (l) For most industrial treatment works, treatment works approvals will be issued in the form of a General Industrial Treatment Works Approval. The submission requirements for a General Industrial TWA are contained in N.J.A.C. 7:14A-22.6, and are administrative in nature. Within 30 days of receipt of a complete General Industrial TWA application, the Department will issue a General Industrial TWA or notify the applicant that due to a potentially significant health risk, environmental impact, or past performance of the facility the project cannot be granted a General Industrial TWA and an individual treatment works approval is required.

7:14A-22.6 Information and submission requirements for general industrial treatment works approvals

- (a) Industrial treatment works not exempt pursuant to N.J.A.C. 7:14A-22.4 shall submit the following information as an application for a General Industrial Treatment Works Approval:
 1. The Department's Treatment Works Approval application form (original) signed, dated and imprinted with a seal where applicable;
 - i. The application form shall require information regarding name and address of applicant, applicant's agent and design engineer; project site location; project description; the status of related permit applications; property owner's certification; professional engineer's certification; and proper construction and operation clause.
 2. The minimum fee for a treatment works pursuant to N.J.A.C. 7:1C-1.5;
 3. A certification signed and sealed by a New Jersey licensed professional engineer stating the following:
 - i. The proposed treatment works, as designed, will enable the facility to meet all applicable Federal, State and local effluent limitations, conditions and/or requirements;
 - ii. The proposed treatment works or contributing facility will not dilute any portion of its waste stream for the purpose of meeting any applicable NJPDES effluent limitation or condition; and
 - iii. The permittee currently holds a valid final NJPDES permit, General permit authorization, or for indirect dischargers, the applicant is specifically exempted by the Department;
 4. A completed Licensed Operator Grading sheet;
 5. A resolution, certification and/or written statement of consent from the affected municipality, sewerage authority, owner of the receiving

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treatment plant; owner/operator of the wastewater conveyance system into which the project will directly connect; and district sludge management lead planning agency (if applicable, see (a)5ii below) or completion of the Department's form WQM003;

- i. Required consents shall be in conformance with N.J.A.C. 7:14A-22.8(a)3.
 - ii. A written statement of consent from the district sludge management lead planning agency is required only for applications that involve construction of residual management units at ultimate residuals management sites.
 - iii. Written statements of consent from the affected sewerage authority must contain a certification concerning the plant's compliance with the applicable NJPDES permit requirements.
 - iv. A written statement of consent from the owner/operator of the conveyance system must certify that the conveyance system has adequate conveyance capacity as defined in N.J.A.C. 7:14A-1.2 to convey the additional flow.
 - v. If an applicant is unable to obtain the required endorsement or written statement of consent, then the procedures stated in N.J.A.C. 7:14A-22.8(a)3 shall apply. An application may be considered complete only after the 60 day period of notification, as required in N.J.A.C. 7:14A-22.8(a)3 has elapsed;
 6. One set, each, of final construction plans and specifications, signed and sealed by a New Jersey licensed professional engineer.
 7. An engineering abstract containing, at a minimum, the following:
 - i. A description of waste treatment system;
 - ii. The ultimate destination of all wastewater and residuals;
 - iii. A listing of all pollutants, including regular and intermittent flows, which may enter the system;
 - iv. Average and peak flow requirements; and
 - v. The expected composition of effluent from the treatment system; and
 8. Copies of notification to local agencies by certified mail, return receipt requested, in accordance with N.J.A.C. 7:1C-1.5.
- (b) The Department, within 30 days of receipt of a complete application for an Industrial Treatment Works Approval, shall issue a General Industrial TWA, or notify the applicant that based upon the potential for significant health risk, environmental impact, or past performance of the facility an individual treatment works approval review is required.

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1. At the time of notification to the applicant that the project does not qualify for a General Industrial TWA, the applicant will also be notified of the additional administrative requirements, if any, necessary for the application to be considered administratively complete pursuant to N.J.A.C. 7:14A-22.8.
- (c) A General Industrial TWA permit shall consist, at a minimum, of the following:
1. The name of the facility and permittee receiving the General Industrial TWA;
 2. The General Industrial TWA permit number and applicable NJPDES number or authorization;
 3. The licensed operator classification where applicable;
 4. The date of authorization for construction, operation or modification of the industrial treatment works; and
 5. Such other general conditions as are appropriate.
- (d) For direct dischargers to surface or groundwater or for indirect dischargers required to obtain an SIU permit from the Department, applications for General Industrial TWA's will not be accepted for review unless the applicant has previously obtained a valid NJPDES permit or general permit authorization.

7:14A-22.7 Requirements for preliminary review of applications for treatment works approval--stage I

- (a) Stage I approvals are optional but are recommended for new or expanded treatment plants and for projects involving new or innovative technologies or designs.
- (b) Applications submitted for stage I review shall contain the following:
1. A letter of request for a Stage I review from the applicant or applicant's agent; and
 2. A project report which, at a minimum, contains the following:
 - i. Project concept, scope and purpose;
 - ii. Water quality management considerations;
 - iii. A brief description of proposed treatment and/or conveyance methods, and appropriate basis for design;
 - iv. For new or innovative technology application, performance data from similar facilities; and
 - v. A sludge management proposal;

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- (c) The Department will respond to the applicant with the review findings for appropriate consideration.
- (d) Any applicant who proceeds to a stage II design, without first obtaining a stage I approval shall bear the full responsibility for the adequacy of design to meet the intended purpose and the Department reserves the right to require the applicant to investigate the feasibility of alternate treatment or conveyance methods during the stage II application process, if the Department determines that drawbacks may exist with the submitted design.

7:14A-22.8 Requirements for construction, installation, or modification of treatment works-stage II

- (a) Persons who propose to build, install or modify treatment works that require the Department's approval pursuant to this subchapter, shall submit the following information and documents in the manner prescribed in this subchapter:
 - 1. The Department's Treatment Works Approval application form, as defined at N.J.A.C. 7:14A-22.6(a)1, (original) signed, dated and imprinted with a seal where applicable; and
 - 2. The appropriate fee, calculated in accordance with N.J.A.C. 7:1C-1.5, made payable to Treasurer, State of New Jersey, Environmental Services Fund;
 - 3. A resolution and/or written statement of consent from the affected municipality, sewerage authority, owner of the receiving treatment plant, owner/operator of the wastewater conveyance system into which the project will directly connect, and district sludge management lead planning agency (if applicable, see (a)3ii below) or completion of the Department's form WQM003.
 - i. Prior to the submission of an application for treatment works approval, the applicant shall submit (return receipt requested) a copy of the application (at a minimum) to the affected sewerage authority (not required for direct dischargers) and to the municipality in which the construction will be located, with a request that they provide a written statement of consent of the application.
 - (1) A written statement of consent by the municipality shall include the statement that the project as proposed is in conformance with the requirements of all municipal ordinances and that the governing body of the municipality accepts and approves of the project as proposed by the applicant. If the statement of consent is signed by anyone other than the mayor, the municipality shall file with the Department an official resolution by the governing body delegating such responsibility to the named individual.

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- ii. A written statement of consent from the district sludge management lead planning agency is required only for applications that involve construction of residual management units at ultimate residuals management sites.
- iii. Written statements of consent from the affected sewerage authority shall contain a certification concerning the plant's compliance with applicable NJPDES permit requirements.
- iv. A written statement of consent from the owner/operator of the conveyance system must certify that the conveyance system has adequate conveyance capacity as defined in N.J.A.C. 7:14A-1.2, to convey the additional flow.
- v. If an applicant is unable to obtain the required written statement of consent, then the applicant may choose to follow the procedures stated in (a)3v(1) through (5) below. An application may be considered complete only after the 60 day period of notification, as required in (a)3v(1) through (5) below, has elapsed.
 - (1) The affected sewerage authority or municipality shall submit a written statement of consent to the application or submit written comments to the Department within 60 days of the request for consent. Prior to the expiration of the 60 day period to respond a request for a written statement of consent, the municipality or sewage authority may request a 30 day extension for review of a request for consent.
 - (2) Any document issued by a sewerage authority or municipality which is tentative, preliminary, or conditional approval shall not be considered a statement of consent.
 - (3) When the affected sewerage authority or municipality does not consent to a project, it shall state all reasons for rejection or disapproval in a resolution and send a certified copy of the resolution to the Department.
 - (4) When the affected municipality or sewerage authority expressly denies a request for a written statement of consent for a project, the permit application may be determined by the Department to be incomplete for processing; or in the alternative, the Department may review the reasons for denial. Any such reasons shall be considered by the Department in determining whether to issue a treatment works approval or sewer connection approval in accordance with this subchapter.
 - (5) When the affected municipality or sewerage authority does not issue either a written statement of consent or a denial of the request for consent, the Department, upon receipt of proof that the applicant has delivered to the affected agency a written

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request for a written statement of consent, shall review the reasons for the lack of consent or denial, if known on the basis of reasonably reliable information. Any such reasons shall be considered by the Department in determining whether to issue a treatment works approval or sewer connection approval in accordance with this subchapter.

4. Copies of notification to local agencies by certified mail, return receipt requested, in accordance with N.J.A.C. 7:1C-1.5;
5. For wastewater collection and conveyance systems, an original signed copy of the Department's Engineering Report Form WQM006. The Engineer's Report shall be signed and sealed (embossed) by a New Jersey licensed professional engineer;
6. For treatment units, holding tanks, equalization tanks, or treatment works other than collection and conveyance systems, in addition to the Department's form WQM006, the applicant shall prepare and submit a technical report addressing the requirements specified in N.J.A.C. 7:14A-23.5;
7. An itemized engineering cost estimate for the proposed treatment works. The cost estimate shall be in sufficient detail to indicate the basis for the estimate and the approximate separation of costs for individual sewerage facilities;
8. One set, each, of final construction plans and specifications, signed and sealed by a New Jersey licensed professional engineer, and meeting the requirements stated in N.J.A.C. 7:14A-23.4;
9. One original Dry Sewer Affidavit, if applying for a stage II "construction only" permit pursuant to N.J.A.C. 7:14A-22.9;
10. A copy of a USGS Quad Map with the project site location boundaries drawn to scale;
11. Copies of Pinelands approval or certificate of filing, or Delaware and Raritan Canal Commission approval, if required;
12. For sewage holding tank applications, the following additional items are required:
 - i. A letter of consent from the local board of health; and
 - ii. Evidence of contracts with two licensed waste haulers (one as a back-up); and
13. For a hauling/diversion treatment works application, the following additional items are required:
 - i. Evidence of contracts with two licensed waste haulers (one as a back-up);

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- ii. For projects involving wastewater hauling, a letter of consent from the entity accepting the wastewater for treatment and final disposal and for projects involving wastewater diversion, a letter of consent from the municipality or authority accepting additional flow through its collection system; and
 - iii. A statement concerning the frequency and amount of wastewater which will be hauled/diverted. This amount shall be at least equivalent to the project's projected flow pursuant to N.J.A.C. 7:14A-23.3.
- (b) All submissions, including the application, engineer's report, specifications, and plans shall bear an embossed seal of a New Jersey licensed professional engineer.
- (c) Applications shall be signed by the applicant, a responsible official of the applicant as defined in (c)1 below, or an authorized agent providing that an authorization for signature is submitted with the application.
 - 1. A responsible official is an individual meeting the requirements set forth in N.J.A.C. 7:14A-4.9.
 - 2. Signatures older than one year at the time of submission to the Department are not acceptable, except in the case of a previously denied application, in which case the Department shall have the discretion to accept signatures older than one year, or require more recent signatures, depending upon the specific circumstances.

7:14A-22.9 Stage II "construction only" treatment works approvals

- (a) "Dry/construct only" treatment works approvals are stage II approvals, for which operation may not occur until the Department issues a formal stage III approval in accordance with the provisions of this subchapter. Generally, the Department will consider applications for "dry/construct only" facilities in the following circumstances:
 - 1. The proposed project is located in an area that is not currently served by a sewage collection system, and is located within a future sewer service area as identified in the appropriate water quality management plan. In such cases, the application shall include the following:
 - i. Permits for individual septic systems issued by the administrative authority pursuant to N.J.A.C. 7:9A, or a certification from the administrative authority attesting to the suitability of the soils to support on-site subsurface disposal systems in accordance with N.J.A.C. 7:9A; and
 - ii. A statement from the municipality and the person financially responsible for the project, that the septic systems will be abandoned

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and connection to the domestic treatment works will occur at such time as sewer lines become available.

2. The proposed project is located in an area currently subject to a sewer connection ban and the applicant seeks permission to construct sewage collection and conveyance facilities that will not become operational until the sewer connection ban is rescinded by the Department. The Department's consideration of this request is dependent upon submission and compliance with the following:
 - i. The owner of the receiving sewage treatment plant or downstream collection/conveyance facility which is subject to the sewer ban is in compliance with one of the following:
 - (1) An executed administrative consent order with the Department, which provides a schedule for all corrective work that is necessary for rescission of the sewer connection ban; or
 - (2) A treatment works approval permit has been issued for construction, the completion of which will result in rescission of the sewer connection ban, and a contract with a specific date for the completion of construction has been awarded;
 - ii. Submission of a written statement with appropriate documentation that the project can be financially managed during the expected duration of the sewer connection ban, or submission and concurrent approval of an interim means of sewage disposal pursuant to N.J.A.C. 7:14A-22.13 or 22.14; or
 3. The project is for the construction of sewer lines in conjunction with a road paving project, will not have any immediate source of contributory flow, and is located in a current or future sewer service area as identified by the appropriate wastewater management plan.
- (b) "Dry/construct only" treatment works approval applications shall include the following:
1. All items identified under N.J.A.C. 7:14A-22.8, for requirements of stage II treatment works approvals, with the exception of non-applicable sections of the Department's WQM003 consent form for treatment plants or collection systems subject to a sewer connection ban; and
 2. A Dry Sewer Affidavit signed by (as applicable) the property owner, the municipality in which the project is located, and appropriate official of the receiving sewage treatment plant, stating least the following:
 - i. The affected authority/municipality shall not allow the use of the sewerage facilities without prior written approval from the Department;

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- ii. That operation of the treatment works will not be permitted until the sewer connection ban has been rescinded by the Department (if applicable) or adequate downstream sewerage facilities are available as determined by the Department (if applicable);
 - iii. That the possibility exists a treatment works approval for operation (stage III) may not be granted, or may be excessively delayed and that the applicant is proceeding at his own risk; and
 - iv. The applicant is aware that subsequent construction of the permitted "dry" treatment works, in and of itself, does not qualify the project for a sewer ban exemption pursuant to N.J.A.C. 7:14A-22.22.
- (c) A "dry/construct only" treatment works approval shall be filed with the appropriate county clerk as notice to prospective purchasers of restrictions that may apply to the property. The "dry/construct only" TWA shall remain filed with the deed of record until such time as a treatment works approval for operation (stage III) has been issued by the Department.

7:14A-22.10 Requirements for stage III treatment works approval applications

- (a) No person shall operate a treatment works for which a treatment works approval from the Department is required except in conformance with the provisions of this subchapter.
- (b) For treatment works approvals that have been issued concurrently as stage II and stage III approvals ("construct and operate"), operation of the facilities may occur upon completion of the project, inspection and approval of the facilities by the licensed professional engineer overseeing the construction, approval by the local municipality or sewerage authority, and submission to the Department of Form WQM005, Certification of Approval.
- (c) For treatment works approvals that have been issued as stage II ("construct only"), except for the temporary operation of treatment works for the purpose of performance testing, operation may begin only after written approval in the form of a stage III treatment works approval is issued by the Department. Requirements for a stage III approval include:
 - 1. Inspection and approval of the facilities by the licensed professional engineer overseeing the construction and submission of a properly completed form WQM005 to the Department;
 - 2. Submission of a written request for operation from the applicant or duly authorized agent and a written statement in which proof that all conditions of the stage II TWA to construct have been satisfied;
 - 3. An appropriate fee for a permit modification pursuant to N.J.A.C. 7:1C-1.5; and

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4. Submission of "as-built" plans and specifications if different than the approved plans and specifications.

7:14A-22.11 Modifications and revocations of treatment works approvals

- (a) The Department may modify, suspend or revoke a treatment works approval in whole or in part for cause, including, but not limited to:
 1. Violation of any term or condition of the treatment works approval;
 2. Obtaining a treatment works approval by misrepresentation or failure to disclose fully all relevant facts; or
 3. If such treatment works approval is inconsistent with any duly authorized effluent limitation, permit, regulation, statute, or other applicable local, State or Federal law.
- (b) The Department shall determine whether any material changes, design or construction alterations, or changes in flow, which occur after the issuance of a treatment works approval permit will require a modification. When assessing the need for a modification, the Department will evaluate how the proposed changes affect the design or conditions of approval of the original permit. Generally a treatment works approval modification is not required for the substitution of units or materials with others that are structurally, hydraulically, and functionally equivalent, except in cases when a detailed engineering review is needed to determine equivalency. Changes in location or unit sizing and capacity, or increases in flow or project scope, will require a modification or a new TWA, as determined by the Department, depending on the magnitude of the change.
- (c) Unless such a requirement is specifically waived by the Department, a modification request will generally not be considered, and instead, a new treatment works application will be required for major modifications of the project scope including, but not limited to, the addition of a pumping station or alternate treatment units or processes, significant changes to the collection system and the inclusion of sewage generating structures not covered in the original approval.
 1. Requests for modifications shall include the following documents:
 - i. An appropriate fee pursuant to N.J.A.C. 7:1C-1.5;
 - ii. A written request from the applicant stating the nature, scope and reasons for the modification;
 - iii. Revised construction plans and specifications (if applicable);
 - iv. A revised WQM006 Engineer's Report (if applicable);
 - v. A copy of the original treatment works approval permit; and

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- vi. Written consent from the appropriate sewerage authority if the modification will result in an increase in the project's projected flow, or if the modification requires a change or alteration to the point of connection of the proposed sewer to the existing collection system.
2. The Department will accept permit modification requests only for treatment works approvals that are valid (not expired) at the time that the modification request is submitted to the Department. In addition requests for modification will only be considered for a maximum period of two years following the last construction activity on the treatment works conducted in accordance with the Department's original approval.

7:14A-22.12 Extensions of time for treatment works approvals

- (a) Stage II treatment works approvals are valid for an initial period of two years, unless otherwise stated in the approval document. A stage II approval will expire unless building, installing or modifying of the treatment works has begun within the initial approval period stated on the permit, unless the permit is extended pursuant to this subchapter.
- (b) At the Department's discretion, a treatment works approval may be extended beyond the original two year approval date, to a maximum period of five years from the original issuance date. Each extension, if granted, will be for a maximum period of one year.
 1. A request for an extension of time must be received by the Department prior to the expiration date of the permit and shall include the following:
 - i. An appropriate fee pursuant to N.J.A.C. 7:1C-1.5(b);
 - ii. A written request from the applicant or authorized agent; and
 - iii. Consent for the time extension from the sewerage authority if the sewerage authority has notified the Department, in writing, that all time extension requests under its jurisdiction must be accompanied by the authority's consent.
 2. If the extension request is not received by the Department prior to the expiration date of the permit, then in addition to the information required under (b)1 above, the applicant shall also submit written proof of consent for the time extension from the sewerage authority or municipality which owns the receiving treatment plant, and the minimum fee in accordance with N.J.A.C. 7:1C-1.5. In such cases, if the request is approved, the Department will issue the permit extension in the form of a new TWA valid for one year, but extendible up to a maximum of five years from the issuance date of the original approval.
- (c) The Department's decision on whether or not to grant a time extension is dependent upon the circumstances which exist at the time the request is made, including, but not limited to, the status of any sewer connection ban.

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Generally, the request will be denied if a sewer connection ban is in place and the project does not qualify for a sewer ban exemption pursuant to this subchapter.

- (d) The earliest a time extension request will be considered by the Department is one year prior to the permit expiration date.
- (e) Once the construction of sewerage facilities is legally initiated, the TWA is considered to be in effect and further time extensions are not required. However, if construction has been interrupted for a period of more than two years, the Department, at its discretion, may revoke the TWA and deny the extension request. The factors to be considered in making such decisions include, but are not limited to, a sewer connection ban or conveyance problem, time span for which construction is interrupted, the status of the construction, and the reasons for construction interruption.

7:14A-22.13 Administrative requirements for wastewater holding tanks (non-industrial)

- (a) Wastewater holding tanks for temporary use may be approved by the Department in the following circumstances:
 - 1. Simultaneous or subsequent to the issuance of a Stage II "dry/construct only" treatment works approval issued by the Department pursuant to N.J.A.C. 7:14A-22.9(a), for projects located in sewer ban areas; or
 - 2. To serve a proposed project that is located in an area not presently served by sanitary sewers and where a treatment works approval has been issued and a contract has been awarded which contains a scheduled completion date for the construction of downstream facilities necessary for the elimination of the holding tank.
- (b) An administrative authority may, pursuant to N.J.A.C. 7:9A-3.12, approve the temporary use of a sewage holding tank for a period of up to 180 days for an existing structure served by a malfunctioning septic system that is causing a public health hazard.
- (c) Wastewater holding tanks as a permanent means of sewage disposal may be approved in the following circumstances:
 - 1. The holding tank will be utilized to eliminate a failed subsurface disposal system which has been certified by the local board of health or the Department to be a health hazard, connection to a domestic treatment works is not possible or practical, and the holding tank will not be utilized for additional sources of wastewater flow resulting from a building expansion, change in use, or other source;

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- i. For holding tanks to serve a facility with a projected flow of less than 2,000 gallons per day, the applicant shall demonstrate in accordance with N.J.A.C. 7:9A-3.4(d)1 through (d)5, that the existing system was legally constructed and cannot be repaired or rehabilitated and there are no feasible alternatives or substitutes.
 - ii. For holding tanks to serve a facility with a projected flow of 2,000 gallons or more, in addition to demonstrating that the existing system cannot be repaired or rehabilitated, an amendment to the appropriate wastewater management plan pursuant to N.J.A.C. 7:15-4.3 may be required, unless in accordance with N.J.A.C. 7:15-4.2 the use of the holding tank is mandated by an administrative consent order executed between the Department and the applicant; or
 2. The holding tank will be utilized at a marina or dock which serves watercraft that are equipped with marine sanitation devices.
- (d) The holding tank shall meet the technical design requirements specified in N.J.A.C. 7:14A-23.5.
- (e) The entity identified as the receiving treatment plant for the final treatment and disposal of hauled wastewater shall have sufficient capacity to handle the additional flow and not be subject to a sewer connection ban.

7:14A-22.14 Temporary wastewater hauling/diversion

- (a) Wastewater hauling is the removal and transportation of a permitted quantity of wastewater from the headworks of a facility and prior to treatment, by a licensed waste hauler, from a treatment facility which is subject to a sewer ban, to a treatment facility which is not subject to a sewer ban. Wastewater diversion is the re-direction of a permitted quantity of wastewater flow from a collection or conveyance system to an alternate collection system not subject to a sewer connection ban.
1. Flow diversion may be accomplished by constructing various temporary gravity sewers or pumping stations or by modifying an existing collection system so that flows are re-directed to an alternative treatment works.
- (b) The temporary use of wastewater hauling/diversion may be approved by the Department simultaneous or subsequent to the issuance of a stage II "dry/construct only" treatment works approval issued by the Department pursuant to N.J.A.C. 7:14A-22.9(a), for projects located in sewer ban areas, or if authorized by the Department through an administrative/judicial consent order executed by the applicant and the Department.

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7:14A-22.15 Requirements for flow equalization tanks

- (a) The use of flow equalization tanks located at the head of treatment plants, regional pumping stations or pre-treatment facilities for the purpose of improving the treatment process is encouraged by the Department, and will be approved providing that all administrative and technical requirements of this subchapter and the technical requirements specified in N.J.A.C. 7:14A-23 are met.
- (b) Flow equalization tanks proposed to serve areas with significant future growth potential will not be approved as permanent facilities. The problems associated with existing conveyance capacity in these areas should be addressed through appropriate corrective measures such as repairing, replacing, or upgrading the existing inadequate sewerage systems, controlling inflow and infiltration or other applicable remedies.
- (c) In addition to the situation specified in (a) above, flow equalization tanks may be approved for permanent use when the following conditions are satisfied:
 - 1. It is shown that a flow equalization tank is the most appropriate means of providing sewer service to the area under consideration, it is designed as an integral part of the sewage conveyance system and there are no other practical or feasible alternatives, and its use will be on a regional basis (not for individual developments); and
 - 2. The use of the flow equalization tank is to serve areas with severely limited potential for growth and for which the applicant has demonstrated to the Department's satisfaction that the upgrading of the existing downstream conveyance system is not economically feasible due to the limited sources of contributory flow anticipated from future connections in the service area.
- (d) To the maximum extent possible, the utilization of flow equalization tanks should be consolidated to accommodate multiple users. In general, the individual use of flow equalization tanks on a project specific basis is discouraged.
- (e) As part of the submission of a treatment works application for a permanent flow equalization tank, the owner of the affected collection system shall submit an engineer's report meeting the requirements of N.J.A.C. 7:14A-23.5.
- (f) If requested by the applicant, upon receipt of the information referenced in (e) above, the Department will conduct a Stage I review pursuant to N.J.A.C. 7:14A-22.7 and will render a finding as to the acceptability of the proposed permanent flow equalization tank.

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- (g) Flow equalization tanks may be approved on a temporary basis for the purpose of improving situations when inadequate conveyance capacity exists in a collection system. In such a situation, the eventual elimination of the equalization tank must be assured through either an administrative consent order that contains provisions for the corrective work to enable the elimination of the equalization tank, or through the issuance of a treatment works approval that provides a specific and mandatory schedule for the construction of downstream facilities necessary for the elimination of the equalization tank.

7:14A-22.16 Capacity assurance program

- (a) Whenever the committed flow reaches or exceeds 80 percent of the permitted capacity of a treatment works, the participating municipalities and/or sewerage authorities shall submit to the Department a program to be implemented in order to prevent an overloading of their facility or a violation of their NJPDES permit. This program shall include, but is not limited to, the following:
 - 1. Implementation of water conservation measures;
 - 2. Reduction of inflow and infiltration (I/I) where appropriate. Measures shall be taken, to the satisfaction of the Department, which appropriately identify the causes and course of corrective action within a specified time frame;
 - 3. Implementation of measures to maximize treatment plant capacity at a minimum cost;
 - 4. Construction of improvements;
 - 5. Disconnection of roof leaders, sump pumps and other sources of inflow, from sanitary sewer lines and connect into storm sewer lines where storm sewers are available and to the extent feasible;
 - 6. Submission, on a quarterly basis, of a completed WQM007 Form to the Municipal Finance and Construction Element, Bureau of Financing and Construction Permits, PO Box 425, Trenton, New Jersey 08625-0424; and
 - 7. Preparation for the imposition of a self-imposed sewer connection ban, as required by N.J.A.C. 7:14A-22.17, in the event that it is anticipated that additional flows will result in violations of any pollutant parameter limits contained in the plant's NJPDES or NPDES permit.
- (b) For treatment plants which are subject to excessive inflow and infiltration to the extent that NJPDES permit limits for flow are occasionally exceeded during wet months, the Department will consider issuing TWAs for additional flow if, in the sewerage authority's opinion, the affected sewage treatment plant can treat flows in excess of its permitted capacity and still maintain compliance with the pollutant limits specified in its NJPDES permit. In addition to the requirements in (a)1 through 7 above, the authority shall submit a detailed technical report demonstrating its findings and providing

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justification for the issuance of treatment works approvals for additional contributory flows.

1. The detailed technical report referenced in (b) above must contain a discussion of the following issues:
 - i. The extent of inflow and infiltration;
 - ii. Dry weather treatment capacity at the plant;
 - iii. The plant's ability to treat additional flows;
 - iv. Water quality issues;
 - v. Status of the current NJPDES permit for the plant; and
 - vi. The effect that such a decision will have upon the discharge limitations contained in future NJPDES permits.
- (c) If the participating municipalities and authorities do not comply with (a) above, then the Department may issue a warning notice. A warning notice shall require the sewerage authority or municipality to prepare and submit a program pursuant to N.J.S.A. 58:10A-6(h)(3) and (a) above, within 45 days of receipt of the notice.
- (d) Upon approval by the Department of a program submitted pursuant to (a) or (b) above, the sewage authority and participating municipalities shall give public notice of the program in a manner designed to inform local residents, developers, local planning board and other affected persons. Such notice shall include at least the following information:
 1. The name, mailing address and telephone number of the owner of the treatment works;
 2. The permitted capacity of the treatment works;
 3. The committed flow to the treatment works;
 4. A statement that the treatment plant is approaching its permitted capacity and the possibility exists that a sewer connection ban will be imposed if the plant is unable to maintain compliance with its discharge limits; and
 5. Description of the service area including the participating municipalities.
- (e) In the event that the committed flow to a sewage treatment plant is at or above 100 percent of the plant's permitted capacity, and the Department determines that issues involved in (a), (b) or (c) above have not been appropriately addressed and that additional flows above the plant's permitted capacity may result in violations of their NJPDES permit, the Department may cease the further issuance of treatment works approvals for additional flow to the plant. In the event that such a decision is made, the Department, at its discretion, may grant exceptions for projects that require a TWA providing the project meets the sewer ban exemption criteria specified in N.J.A.C. 7:14A-12.22.

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- (f) Neither this section nor the provisions of N.J.A.C. 7:14A-22.17 shall apply to industrial treatment works that are direct dischargers to the waters of the State.

7:14A-22.17 Sewer ban imposition

- (a) A sewer connection ban shall be imposed in accordance with this subchapter, when any one of the following events occurs:
1. The downstream sewerage facilities do not have adequate conveyance capacity as defined in N.J.A.C. 7:14A-1.2;
 - i. If the cause of inadequate conveyance capacity is a one-time overflow occurrence which has been determined to be the result of extreme and unusual precipitation, or equipment malfunction which has been repaired, the owner/operator may notify the Department, Division of Water Quality, in writing within 20 days of the occurrence and request relief from the imposition of the sewer ban.
 - ii. The Department may require any local agency requesting relief pursuant to this provision to provide additional detailed justification, including, but not limited to, a sewer system capacity analysis and evaluation;
 2. For a three month consecutive period, a treatment works has discharged effluent to a surface water which violates the limitations for any of the conventional pollutants, as defined in (b) below, of its NJPDES or NPDES permit, as determined by the arithmetic average of the permit parameters for the period;
 3. For a three month consecutive period, a treatment works has discharged effluent to the surface water which violates any nonconventional pollutant of its NJPDES or NPDES permit, as determined by the arithmetic average of the permit parameters for the period, and the sewerage authority or municipality does not meet one of the following requirements for relief from the sewer connection ban imposition:
 - i. The treatment plant owner has entered into an administrative/judicial consent order with the Department that contains a schedule for the completion of improvements necessary to enable the treatment facility to comply with all the conditions and limitations of its NJPDES permit; or
 - ii. A treatment works approval permit for the improvements necessary to enable the treatment facility to comply with all conditions and limitations of its NJPDES permit has been issued and a contract for the construction has been awarded; or
 4. For a three month consecutive period a treatment works has discharged effluent to ground water which violates any effluent or flow limitations of its NJPDES or NPDES permit, as determined by the arithmetic average of the permit parameters for the period.

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- (b) For the purpose of the sewer ban imposition and rescission criteria, "conventional pollutant" shall mean NJPDES discharge permit limitations established for oxygen demanding pollutants (BOD, CBOD, NBOD and TBOD), total suspended solids (TSS), pH and bacterial quality indicators (fecal coliform, total coliform, enterococci).
- (c) For surface water dischargers, violations of NJPDES or NPDES effluent requirements for flow, percent removal or toxicity shall not require the imposition of a sewer connection ban. In the case of a treatment facility at or above 80 percent of its permitted flow, the facility shall be subject to the provisions of the Capacity Assurance Program specified at N.J.A.C. 7:14A-22.16.
- (d) For the purposes of ban imposition and rescission criteria only, if a valid NJPDES permit contains more than one means of measuring an oxygen demanding pollutant (example: CBOD or NBOD or TBOD), then consistent compliance with only one measurement is required.
- (e) In the event that the sewerage authority and/or municipality does not impose the required sewer connection ban, the Department may cease issuing treatment works approval permits, direct the imposition of a sewer connection ban and take other enforcement actions that it deems necessary.
- (f) Sewer connection bans in effect and imposed pursuant to N.J.A.C. 7:14A-22.18 shall remain in full force and effect unless specifically allowed to be rescinded by the Department in writing, and in accordance with N.J.A.C. 7:14A-22.18(f).

7:14A-22.18 Procedures and effective date for the imposition of a sewer connection ban

- (a) Within 20 days of the treatment works becoming subject to a ban pursuant to N.J.A.C. 7:14A-22.17, the owner/operator of the subject treatment works shall:
 - 1. Adopt a resolution imposing the sewer connection ban;
 - 2. Cease the further approval of sewer connections to the subject treatment works as of the effective date of the ban;
 - 3. Notify the affected municipalities that they shall cease the issuance of building permits and condition all other approvals which will require or modify a sewer connection, and which has not already obtained a valid treatment works approval issued by the Department.
 - i. For projects that do not require a treatment works approval and/or sewer ban exemption pursuant to N.J.A.C. 7:14A-22.20, the municipality may issue building permits or other local approvals; and

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4. Give notice of the sewer connection ban to the Department, to residents of the area that contributes to the subject treatment works, landowners therein, local planning boards, and other persons or legal entities affected by the ban, within 10 days of adoption of the ban imposition resolution, and at intervals of no more than six months in a manner reasonably expected to be received by such persons.
- (b) Other than in (a)3i above, the affected sewerage authority and participating municipalities shall not issue sewer connection approvals or endorse sewer connection applications for specific projects in the affected area unless the following requirements have been met:
 1. A sewer connection ban has been implemented in accordance with this subchapter;
 2. Sewer connection ban exemption criteria equivalent to, or more stringent than, those contained in N.J.A.C. 7:14A-22.22 have been adopted; and
 3. The sewer connection ban ordinance, or resolution, and the sewer ban exemption for the specific project has been approved by the Department.
 - (c) Treatment works applications filed with the Department prior to the effective date of the sewer connection ban will be considered for approval provided that at the time of the sewerage authority's certification on the Department's Form WQM003, the receiving treatment works was operating in compliance with all applicable conditions as stated in the WQM003 Form.
 - (d) When the participating municipalities and/or affected sewerage authorities have failed to comply with (a) and (b) above, the Department shall cease issuing treatment works approvals and may also direct the imposition of a sewer connection ban, issue administrative orders, assess civil administrative penalties, seek judicial relief, or take any other enforcement action it deems necessary.
 - (e) The effective date for any sewer connection ban required to be imposed by this subchapter shall be 20 days following the date upon which the first of either of the following occurs:
 1. The due date of the Discharge Monitoring Report which would indicate non-compliance in accordance with N.J.A.C. 7:14A-22.17; or
 2. The date of identification of a lack of adequate conveyance capacity as defined in N.J.A.C. 7:14A-1.2.
 - (f) The affected sewerage authority or municipality shall apply to the Department for a rescission or modification of a sewer connection ban implemented pursuant to this subchapter at such time as a ban is no longer required in accordance with N.J.A.C. 7:14A-22.17. No ban may be rescinded without written approval from the Department.

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7:14A-22.19 General policy and procedure for sewer connection ban exemptions

- (a) Each affected sewage authority, or municipality that owns a treatment works, upon the institution of a connection ban, shall adopt exemption criteria at least as stringent as those included in this subchapter in order to provide relief to persons who qualify for such relief. The burden of proof is upon the applicant for all exemption requests and the Department and each affected sewerage authority shall presume that all applicants have knowledge of the sewer connection ban after the effective date of its imposition.
- (b) No exemption shall be granted to any person who subsequently proceeds with a proposed project, without first obtaining all necessary approvals, and thereby increases or creates a self-imposed hardship.
- (c) For projects which require a treatment works approval pursuant to N.J.A.C. 7:14A-22.3, a sewer ban exemption approval, if required pursuant to this subchapter, shall be obtained from the Department or delegated agency, prior to filing the treatment works approval application.
- (d) Before making a final decision, the Department may request additional documentation or information that is relevant to the project. Failure of the applicant to supply the additional information may serve as a basis for denial of the application.
- (e) Water conservation plumbing is required in all instances of new or modified plumbing or piping. Water conservation plumbing is a condition of the exemption and does not constitute the basis for a sewer ban exemption.
- (f) An exemption granted for a specific project at a determined location is not transferable to any other project or location, and is only transferable to a new owner providing the location, scope and other relevant conditions of granting the original exemption remain unchanged. Transfers to new owners meeting the requirements of this subsection do not require Department approval.
- (g) Projects which have changed in scope or for which the conditions of granting the original exemption have changed are not considered to be exempt. The applicant/owner of such projects shall apply for a new sewer ban exemption in accordance with this subchapter.

7:14A-22.20 Activities which do not require an exemption from the Department

- (a) Any project which has proceeded in accordance with a valid stage II and stage III treatment works approval from the Department for the construction and operation of treatment works will not require a sewer ban exemption from the Department provided that construction of the facilities is undertaken in accordance with the Department's approval.

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- (b) For projects which do not require a treatment works approval pursuant to N.J.A.C. 7:14A-22.4, a sewer ban exemption from the Department is not required provided that the owner/applicant of the project has obtained a building permit prior to the effective date of the sewer connection ban, and is otherwise lawfully entitled to initiate construction in conformance with previously issued valid approvals.
- (c) Modifications, additions or deletions to the internal plumbing or piping of any lawfully, pre-existing building will not require a sewer ban exemption provided that:
 - 1. The size of the building will not increase (gross area); and
 - 2. The category and scope of use of the building will remain unchanged in accordance with N.J.A.C. 7:14A-23.3, Projected flow criteria.
- (d) The replacement, rehabilitation or modification of existing conveyance and treatment facilities will not require a sewer ban exemption provided that the project does not involve any additional contributory flow, as determined by the Department.

7:14A-22.21 Application procedures for obtaining a sewer connection ban exemption from the Department

- (a) The sewerage authority or municipality imposing the ban shall provide the applicant with the following:
 - 1. A copy of the ban exemption regulations contained in N.J.A.C. 7:14A-22.18 through 22.22;
 - 2. The Department's ban exemption application form, WFR001, entitled: "Application for Exemption from a Sewer Connection Ban";
 - 3. The effective date of the sewer connection ban; and
 - 4. A copy of the authority's sewer ban exemption criteria.
- (b) An applicant requesting an exemption shall submit the Department's application form for an exemption from a sewer connection ban and any other appropriate documentation to the appropriate sewerage authority or municipality, who shall review the request for compliance with the applicable criteria.
- (c) If the affected sewerage authority or municipality determines that the applicant meets the criteria specified in N.J.A.C. 7:14A-22.22, or more stringent criteria that may be locally adopted, the authority shall forward the application package and a written letter of consent, to the Department for a final decision, unless the local authority has been delegated the authority to approve exemption requests pursuant to N.J.A.C. 7:14A-22.23.

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- (d) If the sewerage authority or municipality denies the sewer ban exemption request, that decision cannot be appealed to the Department.
- (e) After reviewing the application for a sewer connection ban exemption, the Department will notify the affected sewerage authority of the results of its review.
- (f) Before making a decision, the Department may request that the applicant supply additional documentation. If the additional requested information is not supplied, the Department may deny the exemption request.
- (g) The granting of an exemption by the Department and the affected sewerage authority does not relieve the applicant of the responsibility to comply with all other State and local requirements, including compliance with the appropriate water quality management plan requirements and obtaining a treatment works approval from the Department, if required.

7:14A-22.22 Sewer ban exemption criteria

- (a) A sewer ban exemption may be granted for projects that meet any one of the following criteria:
 - 1. If the proposed project will have a total projected flow of 600 gallons per day or less, calculated in accordance with the Department's flow criteria contained in N.J.A.C. 7:14A-23.3, and meets the following requirements:
 - i. The project will be constructed and/or operated on a tax lot which was in existence prior to the effective date of the ban, or on a tax lot which is the result of a one-time subdivision of a single lot into two lots, subsequent to the date of the ban. In this instance, a total of 600 gallons per day may be approved for the combination of both lots; and
 - ii. The proposed project does not require a sewer extension;
 - 2. If the project will replace a building/facility, at the same location, which was in existence prior to the effective date of the sewer connection ban, and was or is currently connected to the treatment works subject to the ban, and the replacement facility will create flow equal to or less than the former facility, calculated in accordance with either one of the following:
 - i. The projected flow of the proposed building is less than or equal to the projected flow of the existing building based on the criteria contained in N.J.A.C. 7:14A-23.3; or
 - ii. The projected flow of the proposed facility, based on N.J.A.C. 7:14A-23.3, is equal to or less than the actual flow of the existing building, based upon water use records for the most recent 12 month period available;

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3. If, in the Department's opinion, there exists a sufficient public need for the proposed project such as for health, safety, food or shelter, there are no reasonable alternatives including alternate sites, and the project meets any one of the following:
 - i. The project is publicly owned or operated, including, but not limited to, a long term health care facility which has received a certification of need from the New Jersey Department of Health, a hospital, a fire or police station or a public school or expansion of an existing New Jersey accredited private school for primary, secondary or higher education; or
 - ii. At least 10 percent of the project's operating costs are provided by a public entity such as the State, county, municipality or an agency of such, the project is for the purpose of ensuring the public welfare by a "not-for-profit" organization. Such projects include a volunteer ambulance squad, school or facility for people with disabilities, an emergency shelter for persons in need, and other projects of a similar nature;
4. If the project is designed to house people with low or moderate incomes, and the affected sewerage authority or municipality is in compliance with either an administrative consent order with the Department, or a judicial consent order with the U.S. Environmental Protection Agency, or has obtained a treatment works approval and awarded a contract for construction of facilities necessary to eliminate the reasons for the sewer connection ban, and it can be demonstrated that the project meets any one of the following requirements:
 - i. The project is to be occupied exclusively by senior citizens with low incomes, and will be owned or operated by a not-for-profit organization incorporated pursuant to N.J.S.A. 55:14I-1 et seq.; and either
 - (1) The project is to be built with funds provided pursuant to Section 202 of the Federal Housing Act (12 U.S.C.A. 1701q) and the monthly rents will be subsidized by funds provided pursuant to section 8 of the U.S. Housing Act of 1937 (42 U.S.C.A. 1437); or
 - (2) The project is to be built with funds provided pursuant to section 515 of Title V of the Housing Act of 1949 as amended (42 U.S.C.A. 1485), and the monthly rents will be subsidized by funds provided pursuant thereto;
 - ii. The project is a rental housing project which meets all of the following conditions:
 - (1) The project will be located in a municipality which is, or has been at one time, designated as an Urban Aid Municipality as defined by the Department of Community Affairs;

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- (2) Twenty percent of the housing units will be occupied by low income households as defined pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301 et seq., N.J.A.C. 5:92-1.3 and N.J.A.C. 5:14-1.3(a));
 - (3) The project is receiving, or has a commitment from the Department of Community Affairs to receive grants or loans through either the Urban Multi-Family Production Program, P.L. 1988, c.47, or the Neighborhood Preservation Balanced Housing Program implemented by the Department of Community Affairs at N.J.A.C. 5:14; and
 - (4) The housing project consists of buildings or structures to be occupied for residential, rental purposes only, and the units will remain rental for no less than 15 years if the project is receiving or has a commitment to receive a grant or loan through the New Jersey Urban Multi-Family Production Program, or for the amount of time set forth at N.J.A.C. 5:14 if the project is receiving or has a commitment to receive a grant or loan through the Neighborhood Preservation Balanced Housing Program;
 - iii. Occupancy of the proposed housing project is limited solely to households of low and moderate income as defined pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., and the project meets all of the following conditions:
 - (1) The housing project consists of buildings or structures to be occupied for residential purposes only;
 - (2) The owner of the proposed housing project is, or will be, a public entity or a nonprofit corporation or association, including, but not limited to, a mutual housing sponsor as defined at N.J.S.A. 52:27D-59 et seq.; and
 - (3) The project is receiving, or has a commitment to receive public funding pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. in accordance with all applicable rules adopted by the Council of Affordable Housing at N.J.A.C. 5:91 and 5:92, the Department of Community Affairs at N.J.A.C. 5:14 and/or the New Jersey Housing and Mortgage Finance Agency at N.J.A.C. 5:80; or
 - iv. Occupancy of the proposed housing project is limited solely to households of low or moderate income, and the project has been approved by the Council on Affordable Housing (COAH) as part of a "Regional Contribution Agreement";
- 5. If an existing building or group of buildings constructed prior to the effective date of the sewer connection ban with lawfully constructed, individual subsurface sewage disposal systems is certified by the

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administrative authority and proven to the satisfaction of the Department to be currently creating a health hazard due to sewage overflow, contamination of the waters of the State, or other malfunction and a New Jersey professional engineer, geologist or soil scientist who is knowledgeable of soils and subsurface disposal system design certifies that the system cannot be reasonably rehabilitated and submits appropriate supporting documentation acceptable to the Department;

6. If the project is for a ground water remedial action which has been approved by the Department's Site Remediation Program and for which no other feasible discharge alternatives exist including on-site treatment and discharge to ground water, or discharge to an alternate surface water location. Exemptions will not be granted under this category for projects located in areas subject to a sewer connection ban due to inadequate conveyance capacity or in situations where the additional discharge will create bypasses or other health hazards at treatment plants that have reached their design capacity, unless adequate provisions for conveyance are included in the project scope;
7. If a project is for a not-for-profit organization that serves a fundamental public need such as providing food/shelter and other essential services regardless of race, creed or religion, to the needy or people with disabilities, meets the criteria for a tax exempt charitable organization under section 501(c)(3) of the Internal Revenue Code, and no alternative to the proposal exists, then the applicant may apply for a sewer ban exemption. The above conditions in this paragraph, by themselves, are not adequate to entitle the applicant to an exemption and the Department shall rule on applications based on the amount of anticipated flow, the progress the affected sewerage authority has made toward resolving the reason for the ban imposition, and the feasibility of alternative discharge methods or alternate facility sites.
8. If the municipality, prior to November 3, 1986, has issued a building permit, or preliminary or final subdivision approval, provided that construction of improvements has taken place, the remaining construction covered by such permit or approval may be eligible for an exemption, providing the applicant shows that, in good faith reliance upon the permit or approval, substantial expenditures have been made by the applicant for physical improvements to the property prior to the effective date of the ban.
 - i. The payment of taxes, the purchase price, expenditures for preparation of engineering and architectural plans and for legal fees, and other costs not expended for physical improvements to the land shall be ineligible for consideration in determination of "substantial expenditures."

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- ii. All claims for eligible expenditures shall be accompanied by certified true copies of contracts, receipts or invoices. An unverified list of expenses is not acceptable for establishing expenditures. In addition, the applicant shall submit an estimate of the total project cost with a certification that the estimate is true and accurate.
- iii. For the purposes of this paragraph, "substantial expenditures" shall mean those eligible costs in excess of:
 - (1) 25 percent of the cost of those projects whose total cost is equal to or less than \$100,000;
 - (2) \$25,000 plus 10 percent of the costs in excess of \$100,000 for those projects whose total cost is less than \$10,000,000 but more than \$100,000; or
 - (3) \$1,015,000 plus five percent of the project costs in excess of \$10,000,000 for those projects whose total cost exceeds this amount.

7:14A-22.23 Delegation

- (a) Except as stated in (g) below, the Department may delegate its authority to approve or disapprove sewer ban exemption applications, to a municipality or sewerage authority in accordance with the provisions of this subchapter.
- (b) Any municipality or sewerage authority, which is the owner of the affected sewerage facilities, may make an application to the Department to be considered as a delegated agency for the purpose of this subchapter. To be considered for delegation by the Department, the sewerage authority or municipality shall satisfy all of the following:
 - 1. The sewerage authority or municipality shall demonstrate that it is capable of effectively implementing the rules, regulations and standards adopted by the Department for administration of the sewer ban exemption program; and
 - 2. The sewerage authority or municipality shall have sufficient resources, including qualified staff to implement the delegated ban exemption program.
- (c) If the sewer ban exemption program or portion thereof is delegated by the Department, the affected sewerage authority or municipality shall comply with the following:
 - 1. The delegated agency shall adopt an ordinance or resolution containing all required provisions of the rules, and include provisions for enforcement and administration of the program.

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2. The delegated sewerage authority or municipality shall submit a quarterly report with a list of approvals or denials of projects, including the project scope and location, a certification by the appropriate official that all projects granted approval meet the requirements of this subchapter. If no actions were taken during the quarter, a statement to this effect shall be submitted to the Department.
 3. The delegated sewerage authority or municipality shall execute a binding memorandum of understanding with the Department specifying, at a minimum, each party's authority and obligations, and the specific review standards, monitoring and record keeping requirements for the delegated agency.
- (d) The Department shall review the delegation arrangement and its effectiveness at least every three years from the date of initial approval, and reserves the right to rescind any previously issued delegation of authority for any valid reason.
- (e) In the event that the Department amends any of the rules in this subchapter, the delegated agency shall implement the amended rules as of their effective date.
- (f) Delegation pursuant to this subchapter shall not waive the Department's right to monitor and inspect any documents or project sites or to seek fines or penalties pursuant to the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.
- (g) Sewer ban exemption applications submitted pursuant to N.J.A.C. 7:14A-22.22(a)3, (a)6 and (a)7 (public need, ground water remediation and not-for-profit organization projects) shall not be delegated.
- (h) Any sewerage authority or municipality accepting delegation pursuant to these provisions shall review and approve or deny projects in accordance with the provisions of this subchapter and applicable provisions contained in N.J.A.C. 7:14A-23.

7:14A-22.24 Requests for adjudicatory hearings

- (a) Subject to the limitation on third-party hearing rights specified in (e) below, any interested person who considers himself or herself aggrieved by the approval or denial of a treatment works approval may request an adjudicatory hearing in accordance with the procedures specified in N.J.A.C. 7:1C-1.9 of the "Rules and Regulations Governing 90 Day Construction Permits".
- (b) Subject to the limitation on third-party hearing rights specified in (e) below, any interested person aggrieved by the approval or denial of a sewer ban exemption request by the Department may request an adjudicatory hearing

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within 30 days of receipt of the Department's denial. Adjudicatory hearing requests shall be in writing and shall be accompanied by:

1. A copy of the approval or denial and the same documents that were submitted with the application;
 2. A statement specifying which of the Department's reasons for denial are contested; and
 3. Additional statements describing, in detail, how that person is aggrieved by the decision, and which findings of fact and conclusions of law are being challenged.
- (c) Requests for hearing shall be sent to the Department's Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, PO Box 402, Trenton, New Jersey 08625-0402.
- (d) All hearings pursuant to this section shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.
- (e) Nothing in this section shall be construed to provide a right to an adjudicatory hearing in contravention of N.J.S.A. 52:14B-3.1 through 3.3 (P.L. 1993, c.359).

